

## § 1316.48

Dear Sir: The undersigned \_\_\_\_\_  
(Name of person) hereby requests a hearing  
in the matter of: \_\_\_\_\_ (Identifica-  
tion of the proceeding).

(A) (State with particularity the interest  
of the person in the proceeding.)

(B) (State with particularity the objections  
or issues, if any, concerning which the per-  
son desires to be heard.)

(C) (State briefly the position of the person  
with regard to the particular objections or  
issues.)

All notices to be sent pursuant to the pro-  
ceeding should be addressed to:

\_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Street address)  
\_\_\_\_\_  
(City and State)

Respectfully yours,

\_\_\_\_\_  
(Signature of person)

(b) The Administrative Law Judge,  
upon request and showing of good  
cause, may grant a reasonable exten-  
sion of the time allowed for response to  
an Order to Show Cause.

[36 FR 7820, Apr. 24, 1971, as amended at 36  
FR 13387, July 21, 1971. Redesignated at 38 FR  
26609, Sept. 24, 1973]

EDITORIAL NOTE: For FEDERAL REGISTER ci-  
tations affecting § 1316.47, see the List of CFR  
Sections Affected, which appears in the  
Finding Aids section of the printed volume  
and at [www.fdsys.gov](http://www.fdsys.gov).

## § 1316.48 Notice of appearance.

Any person entitled to a hearing and  
desiring to appear in any hearing,  
shall, if he has not filed a request for  
hearing, file within the time specified  
in the notice of proposed rulemaking, a  
written notice of appearance in the fol-  
lowing form (see the Table of DEA  
Mailing Addresses in § 1321.01 of this  
chapter for the current mailing ad-  
dress):

\_\_\_\_\_  
(Date)

Administrator, Drug Enforcement Adminis-  
tration

\_\_\_\_\_  
(Mailing Address), Atten-  
tion: Federal Register Representative

Dear Sir: Please take notice that  
\_\_\_\_\_ (Name of person) will appear  
in the matter of: \_\_\_\_\_ (Identifica-  
tion of the proceeding).

(A) (State with particularity the interest  
of the person in the proceeding.)

(B) (State with particularity the objections  
or issues, if any, concerning which the per-  
son desires to be heard.)

(C) (State briefly the position of the person  
with regard to the particular objections or  
issues.)

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All notices to be sent pursuant to this ap-  
pearance should be addressed to:

\_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Street address)  
\_\_\_\_\_  
(City and State)

Respectfully yours,

\_\_\_\_\_  
(Signature of person)

[75 FR 10685, Mar. 9, 2010]

## § 1316.49 Waiver of hearing.

Any person entitled to a hearing  
may, within the period permitted for  
filing a request for hearing or notice of  
appearance, waive of an opportunity  
for a hearing, together with a written  
statement regarding his position on  
the matters of fact and law involved in  
such hearing. Such statement, if ad-  
missible, shall be made a part of the  
record and shall be considered in light  
of the lack of opportunity for cross-ex-  
amination in determining the weight  
to be attached to matters of fact as-  
serted therein.

## § 1316.50 Appearance; representation; authorization.

Any person entitled to appear in a  
hearing may appear in person or by a  
representative in any proceeding or  
hearing and may be heard with respect  
to matters relevant to the issues under  
consideration. A representative must  
either be an employee of the person or  
an attorney at law who is a member of  
the bar, in good standing, of any State,  
territory, or the District of Columbia,  
and admitted to practice before the  
highest court of that jurisdiction. Any  
representative may be required by the  
Administrator or the presiding officer  
to present a notarized power of attor-  
ney showing his authority to act in  
such representative capacity and/or an  
affidavit or certificate of admission to  
practice.

[36 FR 7820, Apr. 24, 1971, as amended at 36  
FR 13387, July 21, 1971. Redesignated at 38 FR  
26609, Sept. 24, 1973]

## § 1316.51 Conduct of hearing and par- ties; ex parte communications.

(a) Hearings shall be conducted in an  
informal but orderly manner in accord-  
ance with law and the directions of the  
presiding officer.

(b) Participants in any hearing and  
their representatives, whether or not  
members of the bar, shall conduct

themselves in accordance with judicial standards of practice and ethics and the directions of the presiding officer. Refusal to comply with this section shall constitute grounds for immediate exclusion from any hearing.

(c) If any official of the Administration is contacted by any individual in private or public life concerning any substantive matter which is the subject of any hearing, at any time after the date on which the proceedings commence, the official who is contacted shall prepare a memorandum setting forth the substance of the conversation and shall file this memorandum in the appropriate public docket file. The presiding officer and employees of the Administration shall comply with the requirements of 5 U.S.C. 554(d) regarding ex parte communications and participation in any hearing.

#### § 1316.52 Presiding officer.

A presiding officer, designated by the Administrator, shall preside over all hearings. The functions of the presiding officer shall commence upon his designation and terminate upon the certification of the record to the Administrator. The presiding officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to these ends, including (but not limited to) the power to:

(a) Arrange and change the date, time, and place of hearings (other than the time and place prescribed in § 1301.56) and prehearing conferences and issue notice thereof.

(b) Hold conferences to settle, simplify, or determine the issues in a hearing, or to consider other matters that may aid in the expeditious disposition of the hearing.

(c) Require parties to state their position in writing with respect to the various issues in the hearing and to exchange such statements with all other parties.

(d) Sign and issue subpoenas to compel the attendance of witnesses and the production of documents and materials to the extent necessary to conduct administrative hearings pending before him.

(e) Examine witnesses and direct witnesses to testify.

(f) Receive, rule on, exclude, or limit evidence.

(g) Rule on procedural items pending before him.

(h) Take any action permitted to the presiding officer as authorized by this part or by the provisions of the Administrative Procedure Act (5 U.S.C. 551–559).

[36 FR 7820, Apr. 24, 1971. Redesignated at 38 FR 26609, Sept. 24, 1973, and amended at 42 FR 57457, Nov. 3, 1977; 62 FR 13970, Mar. 24, 1997]

#### § 1316.53 Time and place of hearing.

The hearing will commence at the place and time designated in the notice of hearing published in the FEDERAL REGISTER but thereafter it may be moved to a different place and may be continued from day to day or recessed to a later day without notice other than announcement thereof by the presiding officer at the hearing.

#### § 1316.54 Prehearing conference.

The presiding officer on his own motion, or on the motion of any party for good cause shown, may direct all parties to appear at a specified time and place for a conference for:

(a) The simplification of the issues.

(b) The possibility of obtaining stipulations, admission of facts, and documents.

(c) The possibility of limiting the number of expert witnesses.

(d) The identification and, if practicable, the scheduling of all witnesses to be called.

(e) The advance submission at the prehearing conference of all documentary evidence and affidavits to be marked for identification.

(f) Such other matters as may aid in the expeditious disposition of the hearing.

#### § 1316.55 Prehearing ruling.

The presiding officer may have the prehearing conference reported verbatim and shall make a ruling reciting the action taken at the conference, the agreements made by the parties, the schedule of witnesses, and a statement of the issues for hearing. Such ruling shall control the subsequent course of